BEFORE THE ARIZONA STATE BOARD OF 1 MASSAGE THERAPY 2 In the Matter of: 3 4 FRANK LOZANO **BOARD CASE NOS. 16-129** Holder of License No. MT-16695 5 6 For the Practice as a Massage Therapist **DECISION AND ORDER** In the State of Arizona 7 8 RESPONDENT 9 10 On January 28, 2019, during a regularly scheduled board meeting, the Arizona State 11 12 13 14 15 16

Board of Massage Therapy ("Board") held an Administrative Hearing to hear evidence, testimony and arguments regarding this case. Assistant Attorney General Michael Raine represented the State. Frank Lozano ("Respondent") was not present. Assistant Attorney General, Mary DeLaat Williams, of the Licensing and Enforcement Section of the Attorney General's Office, appeared, in person, to provide independent legal advice to the Board. After hearing all of the evidence and arguments presented by the parties, the Board issues the following Findings of Fact, Conclusions of Law and Order:

PARTIES AND JURISDICTION

- The Board is the duly constituted authority for licensing and regulating the 1. practice of massage therapy in the State of Arizona.
- 2. Respondent is the holder of license number MT-16695, which allows Respondent to practice as a massage therapist in the State of Arizona.
- Under A.R.S. § 32-4201, et seq., the Board possess jurisdiction over the 3. subject matter and over Respondent as a licensee of the Board.

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FACTUAL ALLEGATIONS

- 1. On December 5, 2016, the Board conducted a formal hearing in case number 16-129 involving Respondent.
- 2. At the conclusion of the hearing, the Board found that Respondent had engaged in sexual activity with a client and voted to impose discipline against him.
- 3. On December 22, 2016, the Board issued its Order from the hearing (attached as Exhibit A to this Complaint), which imposed the following terms and conditions:
 - a. The Board placed Respondent's license on two years of probation;
 - b. The Board required that Respondent take twenty-four hours of additional continuing education within twelve months;
 - c. The Board required that Respondent appear before it to seek release from his probation.
- 4. Respondent failed to provide the Board with evidence that he had completed the twenty-four hours of continuing education within twelve months.
- 5. On August 20, 2018, the Board received a letter from Respondent wherein he acknowledged that as of that date, he had not taken any of his additional continuing education courses despite having continued to practice.

CONCLUSIONS OF LAW

- 1. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(10) (engaging in conduct that could harm the public).
- 2. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(23) (violating a Board order).

ORDER

Based on the Board's adoption of the Findings of Fact and Conclusions of Law, the Board issues its order **REVOKING** the Respondent's massage therapy license no. MT-16695.

NOTICE OF APPEAL RIGHTS Respondent is hereby notified that he has the right to petition for a rehearing or review by filing a petition with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons for granting a rehearing. A.A.C. R4-15-401(C). Service of this Order is effective on the date of personal delivery or five days after the date of mailing. If a motion for rehearing is not filed, the Board's Order becomes effective thirty (30) days after it is mailed to the Respondent. Respondent is further notified that the filing of a motion for rehearing is required to preserve any rights of appeal to the Superior Court. DATED this 8th day of February, 2019 ARIZONA STATE BOARD OF MASSAGE THERAPY

Tom Augherton, Executive Director

Original Decision and Order filed this 8th day of February 2019 with the:

Arizona State Board of Massage Therapy 1740 West Adams Street, Suite 3401 Phoenix, Arizona 85007

Copy of the foregoing sent via Regular, Certified, and Electronic mail this 8th day of February 2019 to:

Frank Lozano 22 4677 E. 27th Street 23 Tucson, Arizona 85711 Frank.lozano.jr@gmail.com 24

> Copy of the foregoing sent via Electronic mail this 8th day of February 2019 to:

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